

**REMARKS****Status of Claims**

The Office Action mailed April 30, 2008, has been reviewed and the comments therein were carefully considered. Claims 1-12, 18 and 19 are pending in the application, and are currently rejected. New claims 20 and 21 have been added.

**Claim Rejection Under 35 U.S.C. § 101**

Claims 7 – 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant traverses this rejection.

Applicant has amended the specification to clarify that the claimed invention does not encompass a signal.

**Claim Rejection Under 35 U.S.C. § 103**

Claims 1, 4, 5, 7, 10, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClard (US Patent 6,438,752 B1) in view of Knee et al. (US Patent Application Publication 2002/0095676), and further in view of Klarfeld et al. (US Patent Application Publication 2003/0067554). Applicant traverses this rejection.

Applicant has amended Claims 1 and 7 to recite that adding a category to a second set of categories is in response to “a broadcasted program viewing device being tuned, for a period of time at least equal to a first predetermined threshold, to a plurality of broadcasted programs predetermined to be in the category from the first set”. Support for this amendment may be found in the specification, *inter alia*, in paragraph [0014].

Neither McClard, nor any of the other references, teach or disclose this feature. As the Office Action states on page 4, McClard discloses:

Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is

added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56);

However, McClard at Col. 6, lines 1-9 only discloses that if a **single channel** is tuned to for a predetermined period of time, then information for the program on that channel is stored in memory.

The present invention works in a very different way. Instead of checking for a specific program being tuned to for a predetermined period of time (as McClard discloses), the present invention provides that if a plurality of broadcast programs **in the same category** are tuned into for at least a predetermined period of time, then the category may be added to the second set of categories. Therefore, the test used by the present invention is based on categories, instead of individual programs, as taught by McClard. Applicant asserts that McClard does not teach or suggest this feature, and that the other references, either alone or combined, fail to make up for this deficiency.

Accordingly, Applicant asserts that Claims 1 and 7 and all claims that depend upon them, are allowable.

Applicant has also amended Claims 1 and 7 to remove the recitation of “selecting of the category from the first set”, and has added that recitation to new dependent Claims 20 and 21. Applicant asserts these new claims are allowable.

Regarding Claims 18 and 19, Applicant has amended these claims to clarify that a category may be added to the second set “in response to **multiple selections of** at least one broadcasted program predetermined to be in the category from the first set.” Those claims previously recited “multiple selecting of the category”.

Applicant asserts that Claims 18 and 19 are allowable separate from their dependence on allowable parent claims. McClard at Col. 5, lines 52-65 only discloses that a user’s reception history is updated **only** when a program is viewed for at least **the predetermined period of time**. McClard does not teach or suggest adding a category to the second set of categories based

simply on multiple selections of at least one broadcasted program in that category. Accordingly, Applicant asserts that these claims are allowable.

Claims 2, 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClard (US Patent 6,438,752 B1) in view of Knee et al. (US Patent Application Publication 2002/0095676) further in view of Klarfeld et al. (US Patent Application Publication 2003/0067554) as applied to claims 1 and 7 above, and further in view of Ellis et al. (US Patent Application Publication 2003/0020744), herein Ellis. Applicant traverses this rejection. These claims depend from allowable independent claims and are therefore allowable.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClard (US Patent 6,438,752 B1) in view of Knee et al. (US Patent Application Publication 2002/0095676) further in view of Klarfeld et al. (US Patent Application Publication 2003/0067554) as applied to claims 1 and 7 above, and further in view of Schaffer et al. (US Patent Application Publication 2002/0104087), herein Schaffer. Applicant traverses this rejection.

In the Office Action on page 2 (Response to Arguments), the Examiner states:

Figure 8 of Schaffer clearly teaches a method of updating a user profile ([0044]) by verifying changes in the profile with the user ([0048]). Applicant should note that Schaffer is merely relied upon to teach verifying profile updates with a user. Adding a category from a first set of data to a second set of data is taught by the combination of McClard, Knee and Klarfeld as discussed with respect to claim 1.

Applicant respectfully disagrees. First, as previously described, the combination of McClard, Knee and Klarfeld do not disclose the feature of adding a category to a second set as recited in amended Claim 1. Further, Claims 6 and 12 do not recite anything regarding verifying a user profile, or profile updates. The second set as recited by the claims is not a user profile. The claims recite verifying the adding of a category, not verifying a change to a demographic profile. Applicant asserts that none of the cited references, either alone or combined, teach or suggest this feature, and that Claims 6 and 12 are allowable separate from their dependence on allowable parent claims.

**Conclusion**

All rejections having been addressed, Applicant respectfully requests entry of the present amendment and notification of allowance. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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